

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 19703
[Redacted]	)	
Taxpayer.	)	DECISION
	)	
	)	

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On August 4, 2006, the staff of the Sales Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Refund Determination to [Redacted](taxpayer), denying a refund claim for the period of January 1, 2006, through January 31, 2006, in the total amount of \$7,670.65.

On October 2, 2006, the taxpayer filed a timely appeal and petition for redetermination. An informal hearing was held via teleconference on November 22, 2006.

The taxpayer is a nonprofit corporation that provides public transportation in [Redacted]. At issue is use tax on the purchase price of two [Redacted] buses. The taxpayer purchased the vehicles from a dealer in [Redacted]. The taxpayer did not pay sales tax to the dealer. The taxpayer did pay use tax on the purchase when it titled and registered the buses in Idaho. The taxpayer then filed a claim for a refund of the use tax. The taxpayer argued that it receives funding from entities that are exempt from paying sales tax, such as counties, cities, and the University of Idaho. The taxpayer also stated that the funds that were used to pay the use tax could be traced to those statutorily exempt entities. For those reasons the taxpayer felt it should be exempt from payment of the tax. The Tax Commission audit staff denied the refund claim.

Idaho Code § 63-3621 imposes a use tax on the storage, use, or other consumption of tangible personal property in Idaho. The use tax is a complement to the sales tax. Every state that imposes a sales tax also imposes a use tax. Idaho Code § 63-3623(m) requires that the buyer

of a motor vehicle must show proof of sales or use tax paid before it can be registered, unless an exemption applies. Idaho Code § 63-3622O provides a sales and use tax exemption for purchases by certain nonprofit and government organizations such as hospitals, schools, canal companies, health related entities, and agencies of state and local government. The taxpayer is not one of the organizations included within the ambit of this exemption.

There is a specific use tax exemption that applies to regional transportation authorities that are formed under Chapter 21, Title 40, Idaho Code. See Idaho Code § 40-2113. The taxpayer does not claim to be such an authority and is not relying on this statute.

There are no Idaho sales tax cases directly on point for this issue; however, there are property tax cases that involved nonprofit organizations that received funding from government grants. Both *Housing Southwest v. Washington County*, 128 Idaho 335, 913 P.2d 68 (1996), and *Community Action Agency, Inc., v. Board of Equalization of Nez Perce County*, 138 Idaho 82, 57 P.3d 793 (2002), involved nonprofit organizations that provided low-income housing. Both agencies relied heavily on government grants from federal and state agencies. If the receipt of funds from exempt entities were sufficient to create a tax exemption, then both agencies should have prevailed. Instead, the court ruled that the statute exempting charitable organizations from property tax, Idaho Code § 63-602C, did not apply to either taxpayer.

Furthermore, if the taxpayer in this case were to be granted an exemption, there would be no need for the exemption from use tax in Idaho Code § 40-2113. A statute should be construed so that effect is given to its provisions, and no part is rendered superfluous or insignificant. *Brown v. Caldwell Sch. Dist. No. 132*, 127 Idaho 112, 117, 898 P.2d 43, 48 (1995); *In re Matter of Permit No. 36-7200 in Name of Idaho Dep't of Parks & Recreation*, 121 Idaho 819, 822-23,

828 P.2d 848, 851-52 (1992). To grant the taxpayer an exemption in this case would render the entire statute superfluous.

Finally, it is a rule of statutory construction that exemptions are to be construed narrowly. The Idaho Supreme Court has stated that tax exemptions are never presumed nor will a statute granting the exemption be extended by judicial construction so as to create an exemption not specifically authorized. *Canyon County v. Sunny Ridge Manor, Inc.*, 106 Idaho 98, 675 P.2d 813 (1984); *Sunset Memorial Gardens, Inc. v. State Tax Comm'n*, 80 Idaho 206, 327 P.2d 766 (1958). Also, statutes granting tax exemptions must be strictly construed against the taxpayer and in favor of the state. *Hecla Mining Co. v. Idaho State Tax Comm'n*, 108 Idaho 147, 697 P.2d 1161 (1985); *Canyon County v. Sunny Ridge Manor, Inc.*, supra; *Leonard Constr. Co. v. State Tax Comm'n*, 96 Idaho 893, 539 P.2d 246 (1975).

WHEREFORE, the Notice of Refund Determination dated August 4, 2006, is APPROVED, AFFIRMED and MADE FINAL.

An explanation of the taxpayer's right to appeal this decision is included with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2007.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

### **CERTIFICATE OF SERVICE BY MAIL**

I hereby certify that I have on this \_\_\_\_ day of \_\_\_\_\_, 2007, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.

[Redacted]

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